IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 855 OF 2005

Ananda Dhondi Nikam & Anr. ....Appellants.
V/s
Rangrao Dhondi Nikam ....Respondent.

Ms.Dhanashree Shende i/by Mr.N.V.Gangal, Adv. For the appellant.

CORAM: A.P.DESHPANDE, J.
13/7/07

PC:

The present appellant Ananda and respondent Ramrao are real brothers. The appellant No.1, the respondent, one Ramchandra Patil and Vasant Sadvilkar purchased land admeasuring 31 ars under a registered sale deed. After purchase of the said land according to the respondent-plaintiff there was a partition and four shares came to be defined separately in favour of four joint purchasers. After shares came to be separated Ramchandra sold part of his portion whereas Vasant Sadvilkar raised an oil mill in his portion of land and respondent No.1 constructed house in portion which had fallen to his share. As the present appellants were trying to disturb the peaceful possession of the plaintiff, respondent No.1 herein instituted a suit for perpetual injunction in regard to the suit property seeking to restrain the appellant from interfering and obstructing with

possession. The suit came to be decreed by the trial Court and aggrieved thereby the present appellant preferred an appeal before the Additional District Judge, Kolhapur who has dismissed the first appeal and aggrieved thereby this second appeal has been filed. The First Appellate Court has referred to various documents which are produced by respondent No.1 to substantiate that he alone to the exclusion of present appellant No.1 has constructed house premises. The documents included permission granted for construction of house by gram panchayat. Both the Courts below have held that respondent No.1 has succeeded in establishing that the property which was earlier purchased jointly by four purchasers came to be partitioned and shares of all the four owners were separated and respondent No.1 has constructed house in portion fallen to his share. Having so held the Courts below have decreed the suit. Perused the judgment and decree passed by the First Appellate Court. Same is based on evidence on record which does not call for interference in the second appeal. No substantial question of law emerges for consideration. Hence second appeal is summarily dismissed.

13.7.07